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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,725	09/04/2001	Francois Gonthier	478-PCT/US	2731

26031 7590 06/12/2003

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EXAMINER

SONG, SARAH U

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 06/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,725

Examiner

Sarah Song

Applicant(s)

GONTHIER, FRANCOIS

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2001.
- 2a) ☐ This action is **FINAL**.
- 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5.

- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

2. The prior art documents submitted by the applicant in the Information Disclosure Statement filed on September 4, 2001 have all been considered and made of record (note the attached copy of form PTO-1449).

Claim Objections

3. Claim 10 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim (claim 9). See MPEP § 608.01(n). Accordingly, the claim 10 has not been further treated on the merits.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
5. Claims 2-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
6. Regarding claim 2, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Application/Control Number: 09/914,725
Art Unit: 2874

7. Claims 3-10 are method claims that depend from product claim 1. Consequently, the scope of the claims cannot be clearly determined and therefore, will not be further treated on the merits.

8. It appears that preliminary amendment of September 4, 2001 was filed to eliminate multiple dependencies of the claims. However, Examiner notes that the claims filed in this national stage entry of the PCT /CA00/00250 application are the claims as originally filed in the PCT application, and not as amended during the Chapter II examination.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

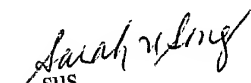
10. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lacroix et al. (CA 1,284,282 provided by the Applicant) in view of Kohnke et al. (U.S. Patent 6,445,493). Lacroix et al. discloses an optical filter with a desired spectral response, which comprises a plurality of tapered fiber filters concatenated in line on a single-mode optical fiber, said tapered fiber filters having specific wavelength response (page 2, lines 6-10). The filters of Lacroix et al. comprise a tapered profile with a central beating region and a taper slope. Lacroix et al. does not specifically disclose a decomposition by means of a computer program or algorithm of a desired spectral response into individual specific simulated responses, whereby the inline concatenation of said tapered fiber filters with responses of various specific designs produces the desired specific response in the filter. Kohnke et al. discloses compound filters that are manufactured by


Application/Control Number: 09/914,725
Art Unit: 2874

using a conventional algorithm to fit the desired spectrum with a series of filters having individual specific responses to achieve the desired response (column 1, lines 55-64). Kohnke et al. thus discloses filters having specific response designs, which closely match corresponding specific responses resulting from decomposition by means of an algorithm. One of ordinary skill in the art would have found it obvious to achieve a desired spectral response with the filters of Lacroix et al. by decomposing the desired spectral response into individual specific responses by means of an algorithm and utilizing filter components with the individual specific response as taught by Kohnke et al. One of ordinary skill in the art would have been motivated to make the modification to achieve the desired spectral response from a series of simpler filter components while increasing manufacturing yields as taught by Kohnke et al.

Conclusion

11. Any inquiry concerning the merits of this communication should be directed to Examiner Sarah Song at telephone number 703-306-5799. Any inquiry of a general or clerical nature, or relating to the status of this application or proceeding should be directed to the receptionist at telephone number 703-308-0956 or to the technical support staff supervisor at telephone number 703-308-3072.


sus
June 10, 2003


John D. Lee
Primary Examiner